

## REMARKS

The January 14, 2004 Office Action objects to the drawings because reference character 66 is not present. Figure 3 has been amended to add reference number 66, as is described and supported by the specification.

The disclosure was objected to because the priority information was not included. The disclosure has been amended to insert the priority information. Applicants note that this application was filed as a National Stage of PCT/US99/187838, as indicated on the filing receipt. Additional priority information, consistent with the PCT application, is also included.

Claims 12, 27, and 41 have been amended to recite a housing that contains an integral inlet for accepting constituents from a plurality of containers; i.e., the dispensing head is a unitary structure including the inlet ducts and the mixing chamber. These amendments are supported by the specification at, for example, the second full paragraph of page 21 through the paragraph bridging pages 21 and 22, as well as by Figures 1-3 and 14-17.

The January 14, 2004 Office Action rejects claims 25 and 26 under 35 U.S.C. 112, second paragraph as being indefinite alleging that various recitations lack antecedent basis. Applicants submit that these rejections are overcome or rendered moot by the present amendment.

The January 14, 2004 Office Action rejects claims 12 and 25 under 35 U.S.C. 102(b) as anticipated by Durham. Applicants submit that claim 12, as amended, contains limitations neither disclosed nor rendered obvious by Durham. Specifically, Durham does not disclose a device that includes a housing mountable atop a plurality of independently valved containers. Because claim 25 depends from claim 12, it also is not anticipated by Durham. Applicants further note that the present claim amendment is intended only to limit the claim to the extent necessary to distinguish the Durham reference. Thus, the claim is intended to include all equivalents of the added limitation that are distinct from Durham.

In view of the above, Applicants respectfully submit that the rejection should be withdrawn.

The January 14, 2004 Office Action rejects claims 12-15, 26, 27, 33-35, and 37-41 under 35 U.S.C. 103(a) as obvious over a variety of references in view of Durham. Applicants respectfully traverse and submit that the Office Action fails to establish a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

A person skilled in the art would not be motivated to combine the teachings of Durham with the other references applied. Weigner is directed to a device for co-dispensing a hair dye under pressure. Miya is directed to an applicator for applying products to hair. Safianoff is directed to an apparatus for dispensing components of a polymer foam under pressure.

Durham differs in structure and use from each and every one of these references with which it is combined. Durham is directed to a method of co-mixing liquid materials in a gravity fed method. A person of ordinary skill in the art would have no reason to combine Durham with the other references that have such distinct applications and uses. There is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings from such distinct applications. Furthermore, the cited references do not together disclose each and every limitation of the claim as amended.

Accordingly, Applicants submit that a *prima facie* case of obviousness does not exist and the rejections should be withdrawn.

### **CONCLUSION**

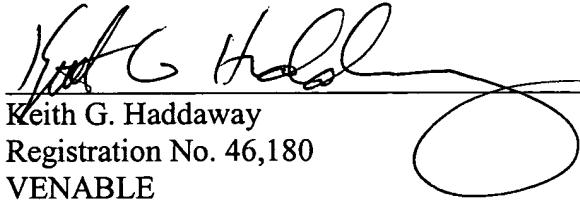
All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the

Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. Accordingly, Applicants request that the Examiner indicate the allowability of claims 12-41 and the application pass to issue. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

Date: June 14, 2004

  
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